

AMENDED IN ASSEMBLY AUGUST 9, 2010

AMENDED IN ASSEMBLY JUNE 21, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE APRIL 26, 2010

SENATE BILL

No. 1320

Introduced by Senator Hancock

(Coauthors: Assembly Members Beall, Eng, Hernandez, *Jones*, and
Bonnie Lowenthal)

February 19, 2010

An act to amend Section 640 of the Penal Code, and to amend Sections 99580 and 99581 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1320, as amended, Hancock. Transit fare evasion and passenger misconduct: administrative adjudication.

Existing law provides that it is an infraction, punishable by a fine not to exceed \$250 and by specified community service, to evade the payment of any fare of, or to engage in passenger misconduct on or in a facility or vehicle of, a public transportation system. Existing law authorizes the City and County of San Francisco and the Los Angeles County Metropolitan Transportation Authority to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion or passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties, with specified administrative adjudication procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing. Fare evasion

and passenger misconduct violation penalties are deposited in the general fund of the City and County of San Francisco or the County of Los Angeles, as applicable.

This bill would authorize the Santa Clara Valley Transportation Authority, *the Sacramento Regional Transit District, Long Beach Transit*, Foothill Transit, and the Alameda-Contra Costa Transit District to adopt and enforce a similar administrative adjudication ordinance. Fare evasion and passenger misconduct violation penalties would be deposited in the general fund of the county in which the citation is administered.

This bill would make various other changes to these provisions that would be applicable to all ~~5~~ 7 agencies. The bill would limit the amount of the administrative penalty to the maximum fine that may otherwise be imposed if the conduct were to be charged as an infraction and would provide that a person receiving an administrative citation may not also be charged with that infraction. The bill would require an issuing agency to adopt a written procedure for a person receiving a citation to request an administrative hearing without first paying the amount due, upon satisfactory proof of an inability to pay. The bill would expand the notification to be provided to the person by the issuing agency upon denial of an initial review of the citation.

This bill would incorporate changes to Section 640 of the Penal Code made by AB 2324, to become operative only if both this bill and AB 2324 are enacted, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 640 of the Penal Code is amended to
2 read:
3 640. (a) Any of the acts described in subdivision (b) is an
4 infraction punishable by a fine not to exceed two hundred fifty
5 dollars (\$250) and by community service for a total time not to
6 exceed 48 hours over a period not to exceed 30 days, during a time
7 other than during his or her hours of school attendance or
8 employment, when committed on or in any of the following:
9 (1) A facility or vehicle of a public transportation system as
10 defined by Section 99211 of the Public Utilities Code.

1 (2) A facility of, or vehicle operated by any entity subsidized
2 by, the Department of Transportation.

3 (3) A leased or rented facility or vehicle for which any of the
4 entities described in paragraph (1) or (2) incur costs of cleanup,
5 repair, or replacement as a result of any of those acts.

6 (b) (1) Evasion of the payment of a fare of the system.

7 (2) Misuse of a transfer, pass, ticket, or token with the intent to
8 evade the payment of a fare.

9 (3) Playing sound equipment on or in a system facility or
10 vehicle.

11 (4) Smoking, eating, or drinking in or on a system facility or
12 vehicle in those areas where those activities are prohibited by that
13 system.

14 (5) Expectorating upon a system facility or vehicle.

15 (6) Willfully disturbing others on or in a system facility or
16 vehicle by engaging in boisterous or unruly behavior.

17 (7) Carrying an explosive or acid, flammable liquid, or toxic or
18 hazardous material in a public transit facility or vehicle.

19 (8) Urinating or defecating in a system facility or vehicle, except
20 in a lavatory. However, this paragraph shall not apply to a person
21 who cannot comply with this paragraph as a result of a disability,
22 age, or a medical condition.

23 (9) (A) Willfully blocking the free movement of another person
24 in a system facility or vehicle.

25 (B) This paragraph shall not be interpreted to affect any lawful
26 activities permitted or first amendment rights protected under the
27 laws of this state or applicable federal law, including, but not
28 limited to, laws related to collective bargaining, labor relations,
29 or labor disputes.

30 (10) Skateboarding, roller skating, bicycle riding, or roller
31 blading in a system facility, vehicle, or parking structure. This
32 paragraph does not apply to an activity that is necessary for
33 utilization of the transit facility by a bicyclist, including, but not
34 limited to, an activity that is necessary for parking a bicycle or
35 transporting a bicycle aboard a transit vehicle, if that activity is
36 conducted with the permission of the transit agency in a manner
37 that does not interfere with the safety of the bicyclist or other
38 patrons of the transit facility.

39 (11) (A) Unauthorized use of a discount ticket or failure to
40 present, upon request from a transit system representative,

1 acceptable proof of eligibility to use a discount ticket, in
2 accordance with Section 99155 of the Public Utilities Code and
3 posted system identification policies when entering or exiting a
4 transit station or vehicle. Acceptable proof of eligibility must be
5 clearly defined in the posting.

6 (B) In the event that an eligible discount ticket user is not in
7 possession of acceptable proof at the time of request, any citation
8 issued shall be held for a period of 72 hours to allow the user to
9 produce acceptable proof. If the proof is provided, the citation
10 shall be voided. If the proof is not produced within that time period,
11 the citation shall be processed.

12 (c) Notwithstanding subdivision (a), the City and County of San
13 Francisco, the Los Angeles County Metropolitan Transportation
14 Authority, the Santa Clara Valley Transportation Authority, *the*
15 *Sacramento Regional Transit District*, *Long Beach Transit*, Foothill
16 Transit, and the Alameda-Contra Costa Transit District may enact
17 and enforce an ordinance providing that any of the acts described
18 in subdivision (b) on or in a facility or vehicle described in
19 subdivision (a) for which the City and County of San Francisco,
20 the Los Angeles County Metropolitan Transportation Authority,
21 the Santa Clara Valley Transportation Authority, *the Sacramento*
22 *Regional Transit District*, *Long Beach Transit*, Foothill Transit,
23 or the Alameda-Contra Costa Transit District has jurisdiction shall
24 be subject only to an administrative penalty imposed and enforced
25 in a civil proceeding. The ordinance for imposing and enforcing
26 the administrative penalty shall be governed by Chapter 8
27 (commencing with Section 99580) of Part 11 of Division 10 of
28 the Public Utilities Code and shall not apply to minors.

29 *SEC. 1.5. Section 640 of the Penal Code is amended to read:*

30 640. (a) (1) Any of the acts described in *paragraphs (1) to*
31 *(5), inclusive, of subdivision (b)* is an infraction punishable by a
32 fine not to exceed two hundred fifty dollars (\$250) and by
33 community service for a total time not to exceed 48 hours over a
34 period not to exceed 30 days, during a time other than during ~~his~~
35 ~~or her~~ *the violator's* hours of school attendance or employment;
36 ~~when committed on or in any of the following.~~ *Any of the acts*
37 *described in paragraphs (1) to (3), inclusive, of subdivision (c),*
38 *upon a first or second violation, is an infraction punishable by a*
39 *fine not to exceed two hundred fifty dollars (\$250) and by*
40 *community service for a total time not to exceed 48 hours over a*

1 *period not to exceed 30 days, during a time other than during the*
2 *violator's hours of school attendance or employment. A third or*
3 *subsequent violation of any of the acts described in paragraphs*
4 *(1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable*
5 *by a fine of not more than four hundred dollars (\$400) or by*
6 *imprisonment in a county jail for a period of not more than 90*
7 *days, or by both that fine and imprisonment. Any of the acts*
8 *described in subdivision (d) shall be punishable by a fine of not*
9 *more than four hundred dollars (\$400), by imprisonment in a*
10 *county jail for a period of not more than 90 days, or by both that*
11 *fine and imprisonment.*

12 ~~(1) A facility or vehicle of a public transportation system as~~
13 ~~defined by Section 99211 of the Public Utilities Code.~~

14 ~~(2) A facility of, or vehicle operated by any entity subsidized~~
15 ~~by, the Department of Transportation.~~

16 ~~(3) A leased or rented facility or vehicle for which any of the~~
17 ~~entities described in paragraph (1) or (2) incur costs of cleanup,~~
18 ~~repair, or replacement as a result of any of those acts.~~

19 ~~(b) (1) Evasion of the payment of a fare of the system.~~

20 ~~(2) Misuse of a transfer, pass, ticket, or token with the intent to~~
21 ~~evade the payment of a fare.~~

22 ~~(3) Playing sound equipment on or in a system facility or~~
23 ~~vehicle.~~

24 ~~(4) Smoking, eating,~~

25 ~~(2) This section shall apply only to acts committed on or in a~~
26 ~~facility or vehicle of a public transportation system.~~

27 ~~(b) (1) Eating or drinking in or on a system facility or vehicle~~
28 ~~in those areas where those activities are prohibited by that system.~~

29 ~~(2) Disturbing another person by loud or unreasonable noise.~~

30 ~~(3) Smoking in or on a system facility or vehicle in areas where~~
31 ~~those activities are prohibited by that system.~~

32 ~~(5)~~

33 ~~(4) Expectoring upon a system facility or vehicle.~~

34 ~~(6) Willfully disturbing others on or in a system facility or~~
35 ~~vehicle by engaging in boisterous or unruly behavior.~~

36 ~~(7) Carrying an explosive or acid, flammable liquid, or toxic or~~
37 ~~hazardous material in a public transit facility or vehicle.~~

38 ~~(8) Urinating or defecating in a system facility or vehicle, except~~
39 ~~in a lavatory. However, this paragraph shall not apply to a person~~

1 who cannot comply with this paragraph as a result of a disability,
2 age, or a medical condition.

3 ~~(9) (A) Willfully blocking the free movement of another person~~
4 ~~in a system facility or vehicle.~~

5 ~~(B) This paragraph shall not be interpreted to affect any lawful~~
6 ~~activities permitted or first amendment rights protected under the~~
7 ~~laws of this state or applicable federal law, including, but not~~
8 ~~limited to, laws related to collective bargaining, labor relations,~~
9 ~~or labor disputes.~~

10 ~~(10)~~

11 (5) Skateboarding, roller skating, bicycle riding, ~~or roller~~
12 ~~blading, or operating a motorized scooter or similar device as~~
13 ~~defined in Section 407.5 of the Vehicle Code~~ in a system facility,
14 vehicle, or parking structure. This paragraph does not apply to an
15 activity that is necessary for utilization of the transit facility by a
16 bicyclist, including, but not limited to, an activity that is necessary
17 for parking a bicycle or transporting a bicycle aboard a transit
18 vehicle, if that activity is conducted with the permission of the
19 transit agency in a manner that does not interfere with the safety
20 of the bicyclist or other patrons of the transit facility.

21 (c) (1) *Evasion of the payment of a fare of the system. For*
22 *purposes of this section, fare evasion includes entering an enclosed*
23 *area of a public transit facility beyond posted signs prohibiting*
24 *entrance without obtaining valid fare, in addition to entering a*
25 *transit vehicle without valid fare.*

26 (2) *Misuse of a transfer, pass, ticket, or token with the intent to*
27 *evade the payment of a fare.*

28 ~~(11)~~

29 (3) (A) Unauthorized use of a discount ticket or failure to
30 present, upon request from a transit system representative,
31 acceptable proof of eligibility to use a discount ticket, in
32 accordance with Section 99155 of the Public Utilities Code and
33 posted system identification policies when entering or exiting a
34 transit station or vehicle. Acceptable proof of eligibility must be
35 clearly defined in the posting.

36 (B) In the event that an eligible discount ticket user is not in
37 possession of acceptable proof at the time of request, any citation
38 issued shall be held for a period of 72 hours to allow the user to
39 produce acceptable proof. If the proof is provided, the citation

1 shall be voided. If the proof is not produced within that time period,
2 the citation shall be processed.

3 (d) (1) *Willfully disturbing others on or in a system facility or*
4 *vehicle by engaging in boisterous or unruly behavior.*

5 (2) *Carrying an explosive, acid, or flammable liquid in a public*
6 *transit facility or vehicle.*

7 (3) *Urinating or defecating in a system facility or vehicle, except*
8 *in a lavatory. However, this paragraph shall not apply to a person*
9 *who cannot comply with this paragraph as a result of a disability,*
10 *age, or a medical condition.*

11 (4) *Willfully blocking the free movement of another person in*
12 *a system facility or vehicle. This paragraph shall not be interpreted*
13 *to affect any lawful activities permitted or first amendment rights*
14 *protected under the laws of this state or applicable federal law,*
15 *including, but not limited to, laws related to collective bargaining,*
16 *labor relations, or labor disputes.*

17 (5) *Willfully tampering with, removing, displacing, injuring, or*
18 *destroying any part of any facility or vehicle of a public*
19 *transportation system.*

20 (e)

21 (e) Notwithstanding subdivision (a), the City and County of San
22 Francisco—~~and~~, the Los Angeles County Metropolitan
23 Transportation Authority, *the Santa Clara Valley Transportation*
24 *Authority, the Sacramento Regional Transit District, Long Beach*
25 *Transit, Foothill Transit, and the Alameda-Contra Costa Transit*
26 *District* may enact and enforce an ordinance providing that any of
27 the acts described in subdivision (b) *or (c)* on or in a facility or
28 vehicle described in subdivision (a) for which the City and County
29 of San Francisco—~~or~~, the Los Angeles County Metropolitan
30 Transportation Authority, *the Santa Clara Valley Transportation*
31 *Authority, the Sacramento Regional Transit District, Long Beach*
32 *Transit, Foothill Transit, or the Alameda-Contra Costa Transit*
33 *District* has jurisdiction shall be subject only to an administrative
34 penalty imposed and enforced in a civil proceeding. The ordinance
35 for imposing and enforcing the administrative penalty shall be
36 governed by Chapter 8 (commencing with Section 99580) of Part
37 11 of Division 10 of the Public Utilities Code and shall not apply
38 to minors.

39 (f) *For purposes of this section, a “facility or vehicle of a public*
40 *transportation system” means any of the following:*

1 (1) A facility or vehicle of a public transportation system as
2 defined by Section 99211 of the Public Utilities Code.

3 (2) A facility of, or vehicle operated by any entity subsidized
4 by, the Department of Transportation.

5 (3) A leased or rented facility or vehicle for which any of the
6 entities described in paragraph (1) or (2) incurs costs of cleanup,
7 repair, or replacement as a result of any of those acts.

8 SEC. 2. Section 99580 of the Public Utilities Code is amended
9 to read:

10 99580. (a) Pursuant to subdivision (c) of Section 640 of the
11 Penal Code, the City and County of San Francisco, the Los Angeles
12 County Metropolitan Transportation Authority, the Santa Clara
13 Valley Transportation Authority, the Sacramento Regional Transit
14 District, Long Beach Transit, Foothill Transit, and the
15 Alameda-Contra Costa Transit District may enact and enforce an
16 ordinance to impose and enforce an administrative penalty for any
17 of the acts described in subdivision (b). The ordinance shall include
18 the provisions of this chapter and shall not apply to minors.

19 (b) (1) Evasion of the payment of a fare of the system.

20 (2) Misuse of a transfer, pass, ticket, or token with the intent to
21 evade the payment of a fare.

22 (3) Playing sound equipment on or in a system facility or
23 vehicle.

24 (4) Smoking, eating, or drinking in or on a system facility or
25 vehicle in those areas where those activities are prohibited by that
26 system.

27 (5) Expectorating upon a system facility or vehicle.

28 (6) Willfully disturbing others on or in a system facility or
29 vehicle by engaging in boisterous or unruly behavior.

30 (7) Carrying an explosive or acid, flammable liquid, or toxic or
31 hazardous material in a system facility or vehicle.

32 (8) Urinating or defecating in a system facility or vehicle, except
33 in a lavatory. However, this paragraph shall not apply to a person
34 who cannot comply with this paragraph as a result of a disability,
35 age, or a medical condition.

36 (9) (A) Willfully blocking the free movement of another person
37 in a system facility or vehicle.

38 (B) This paragraph shall not be interpreted to affect any lawful
39 activities permitted or first amendment rights protected under the
40 laws of this state or applicable federal law, including, but not

1 limited to, laws related to collective bargaining, labor relations,
2 or labor disputes.

3 (10) Skateboarding, roller skating, bicycle riding, or roller
4 blading in a system facility, including a parking structure, or in a
5 system vehicle. This paragraph does not apply to an activity that
6 is necessary for utilization of a system facility by a bicyclist,
7 including, but not limited to, an activity that is necessary for
8 parking a bicycle or transporting a bicycle aboard a system vehicle,
9 if that activity is conducted with the permission of the agency of
10 the system in a manner that does not interfere with the safety of
11 the bicyclist or other patrons of the system facility.

12 (11) (A) Unauthorized use of a discount ticket or failure to
13 present, upon request from a system representative, acceptable
14 proof of eligibility to use a discount ticket, in accordance with
15 Section 99155, and posted system identification policies when
16 entering or exiting a system station or vehicle. Acceptable proof
17 of eligibility must be clearly defined in the posting.

18 (B) In the event that an eligible discount ticket user is not in
19 possession of acceptable proof at the time of request, an issued
20 notice of fare evasion or passenger conduct violation shall be held
21 for a period of 72 hours to allow the user to produce acceptable
22 proof. If the proof is provided, that notice shall be voided. If the
23 proof is not produced within that time period, that notice shall be
24 processed.

25 (c) (1) The City and County of San Francisco, the Los Angeles
26 County Metropolitan Transportation Authority, the Santa Clara
27 Valley Transportation Authority, *the Sacramento Regional Transit*
28 *District*, *Long Beach Transit*, Foothill Transit, and the
29 Alameda-Contra Costa Transit District may contract with a private
30 vendor for the processing of notices of fare evasion or passenger
31 conduct violation, and notices of delinquent fare evasion or
32 passenger conduct violation pursuant to Section 99581.

33 (2) For the purpose of this chapter, “processing agency” means
34 either of the following:

35 (A) The agency issuing the notice of fare evasion or passenger
36 conduct violation and the notice of delinquent fare evasion or
37 passenger conduct violation.

38 (B) The party responsible for processing the notice of fare
39 evasion or passenger conduct violation and the notice of delinquent
40 violation, if a contract is entered into pursuant to paragraph (1).

1 (3) For the purpose of this chapter, “fare evasion or passenger
2 conduct violation penalty” includes, but is not limited to, a late
3 payment penalty, administrative fee, fine, assessment, and costs
4 of collection as provided for in the ordinance.

5 (4) All fare evasion and passenger conduct violation penalties
6 collected by the processing agency in the City and County of San
7 Francisco shall be deposited to the general fund of the City and
8 County of San Francisco.

9 (5) All fare evasion and passenger conduct violation penalties
10 collected by the Los Angeles County Metropolitan Transportation
11 Authority, *Long Beach Transit*, or Foothill Transit shall be
12 deposited in the general fund of the County of Los Angeles.

13 (6) All fare evasion and passenger conduct violation penalties
14 collected by the Santa Clara Valley Transportation Authority shall
15 be deposited in the general fund of the County of Santa Clara.

16 (7) *All fare evasion and passenger conduct violation penalties*
17 *collected by the Sacramento Regional Transit District shall be*
18 *deposited in the general fund of the County of Sacramento.*

19 ~~(7)~~

20 (8) All fare evasion and passenger conduct violation penalties
21 collected by the Alameda-Contra Costa Transit District shall be
22 deposited in the general fund of the county in which the citation
23 is administered.

24 (d) (1) If a fare evasion or passenger conduct violation is
25 observed by a person authorized to enforce the ordinance, a notice
26 of fare evasion or passenger conduct violation shall be issued. The
27 notice shall set forth the violation, including reference to the
28 ordinance setting forth the administrative penalty, the date of the
29 violation, the approximate time, and the location where the
30 violation occurred. The notice shall include a printed statement
31 indicating the date payment is required to be made, and the
32 procedure for contesting the notice. The notice shall be served by
33 personal service upon the violator. The notice, or copy of the
34 notice, shall be considered a record kept in the ordinary course of
35 business of the issuing agency and the processing agency, and
36 shall be prima facie evidence of the facts contained in the notice
37 establishing a rebuttable presumption affecting the burden of
38 producing evidence.

1 (2) When a notice of fare evasion or passenger conduct violation
2 has been served, the person issuing the notice shall file the notice
3 with the processing agency.

4 (3) If a person contests a notice of fare evasion or passenger
5 conduct violation, the issuing agency shall proceed in accordance
6 with Section 99581.

7 (e) In setting the amounts of administrative penalties for the
8 violations listed in subdivision (b), the City and County of San
9 Francisco, the Los Angeles County Metropolitan Transportation
10 Authority, the Santa Clara Valley Transportation Authority, *the*
11 *Sacramento Regional Transit District*, *Long Beach Transit*, Foothill
12 Transit, and the Alameda-Contra Costa Transit District shall not
13 establish penalty amounts that exceed the maximum fine amount
14 set forth in Section 640 of the Penal Code.

15 (f) A person who receives a notice of fare evasion or passenger
16 conduct violation pursuant to this section shall not be subject to
17 citation for a violation of Section 640 of the Penal Code.

18 SEC. 3. Section 99581 of the Public Utilities Code is amended
19 to read:

20 99581. (a) For a period of 21 calendar days from the issuance
21 to a person of the notice of fare evasion or passenger conduct
22 violation, the person may request an initial review of the violation
23 by the issuing agency. The request may be made by telephone, in
24 writing, or in person. There shall be no charge for this review. If,
25 following the initial review, the issuing agency is satisfied that the
26 violation did not occur or that extenuating circumstances make
27 dismissal of the administrative penalty appropriate in the interest
28 of justice, the issuing agency shall cancel the notice. The issuing
29 agency shall advise the processing agency, if any, of the
30 cancellation. The issuing agency or the processing agency shall
31 mail the results of the initial review to the person contesting the
32 notice and if following that review, cancellation of the notice does
33 not occur, the agency shall include a reason for that denial,
34 notification of the ability to request an administrative hearing, and
35 notice of the procedure adopted pursuant to subdivision (b) for
36 waiving prepayment of the penalty based upon inability to pay.

37 (b) If the person is dissatisfied with the results of the initial
38 review, the person may request an administrative hearing of the
39 violation no later than 21 calendar days following the mailing of
40 the results of the issuing agency's initial review. The request may

1 be made by telephone, in writing, or in person. The person
2 requesting an administrative hearing shall deposit with the
3 processing agency the amount due under the notice for which the
4 administrative hearing is requested. The issuing agency shall adopt
5 a written procedure to allow a person to request an administrative
6 hearing without payment of the amount due upon satisfactory proof
7 of an inability to pay the amount due. An administrative hearing
8 shall be held within 90 calendar days following the receipt of a
9 request for an administrative hearing, excluding time tolled
10 pursuant to this chapter. The person requesting the hearing may
11 request one continuance, not to exceed 21 calendar days.

12 (c) The administrative hearing process shall include all of the
13 following:

14 (1) The person requesting a hearing shall have the choice of a
15 hearing by mail or in person. An in-person hearing shall be
16 conducted within the jurisdiction of the issuing agency. If an
17 issuing agency contracts with a private vendor pursuant to
18 paragraph (1) of subdivision (c) of Section 99580, hearings shall
19 be held within the jurisdiction of the issuing agency.

20 (2) The administrative hearing shall be conducted in accordance
21 with written procedures established by the issuing agency and
22 approved by the governing body or chief executive officer of the
23 issuing agency. The hearing shall provide an independent,
24 objective, fair, and impartial review of contested violations.

25 (3) The administrative review shall be conducted before a
26 hearing officer designated to conduct the review by the issuing
27 agency's governing body or chief executive officer. In addition to
28 any other requirements of employment, a hearing officer shall
29 demonstrate those qualifications, training, and objectivity
30 prescribed by the issuing agency's governing body or chief
31 executive as are necessary and which are consistent with the duties
32 and responsibilities set forth in this chapter. The hearing officer's
33 continued employment, performance evaluation, compensation,
34 and benefits shall not be directly or indirectly linked to the amount
35 of fare evasion or passenger conduct violation penalties imposed
36 by the hearing officer.

37 (4) The person who issued the notice of fare evasion or
38 passenger conduct violation shall not be required to participate in
39 an administrative hearing. The issuing agency shall not be required
40 to produce any evidence other than the notice of fare evasion or

1 passenger conduct violation. The documentation in proper form
2 shall be prima facie evidence of the violation pursuant to paragraph
3 (1) of subdivision (d) of Section 99580.

4 (5) The hearing officer's decision following the administrative
5 hearing may be personally delivered to the person by the hearing
6 officer or sent by first-class mail.

7 (6) Following a determination by the hearing officer that a
8 person committed the violation, the hearing officer may allow
9 payment of the fare evasion or passenger conduct penalty in
10 installments or deferred payment if the person provides satisfactory
11 evidence of an inability to pay the fare evasion or passenger
12 conduct penalty in full. If authorized by the issuing agency, the
13 hearing officer may permit the performance of community service
14 in lieu of payment of the fare evasion or passenger conduct penalty.

15 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
16 *Section 640 of the Penal Code proposed by both this bill and AB*
17 *2324. It shall only become operative if (1) both bills are enacted*
18 *and become effective on or before January 1, 2011, (2) each bill*
19 *amends Section 640 of the Penal Code, and (3) this bill is enacted*
20 *after AB 2324, in which case Section 1 of this bill shall not become*
21 *operative.*